



Property Tax Advisory

Property Tax Advisories (PTA) are interpretive statements issued by the Department of Revenue under authority of RCW 34.05.230. PTAs explain the Department's policy regarding how tax law applies to a specific issue or specific set of facts. They are advisory for taxing officials and taxpayers; however, the Department is bound by these advisories until superseded by Court action, Legislative action, rule adoption, or an amendment to or cancellation of the PTA.

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SPECIFIC QUESTIONS RELATED TO ADMINISTRATION OF PROPERTY TAXES UNDER I-695

Question: If a county elects to do a road levy shift, will voter approval be required (since the county general levy would be increased)? Also, will voter approval be required in the succeeding year in order for the county road district to return to its original level?

Answer: RCW 84.52.043 allows counties to "shift" levy capacity from the road district to the county general fund within certain limitations. The county general fund levy cannot exceed \$2.475/\$1,000, and the total rate for the two districts cannot exceed \$4.05/\$1,000. The determination of whether or not to do a road levy shift is made on an annual basis. In the Department of Revenue's view, a road levy shift would require voter approval.

I-695 does not mention RCW 84.52.043, and amendments by implication are not favored. However, as a result of a road levy shift, some taxpayers (e.g., property owners in incorporated areas) will pay more in taxes, and other taxpayers will pay less, even though the total funds collected by the two districts do not increase. The election of a road levy shift through legislative action thus would result in a "tax increase" as defined in the Initiative. On this basis, we believe voter approval would be required to shift funds from the county road district to the county general levy. In the succeeding year, we believe voter approval will not be required for the county road levy to return to its authorized level prior to the shift. The return to the authorized level is automatic and does not require action on the part of the legislative authority.

In this area, as in many others, I-695's interaction with current law raises interpretative issues for which no answer can be given with absolute certainty. Thus, our interpretation may be subject to challenge in a court, and the result may vary. However, what we offer here is our best judgment on how a court might resolve the issue, if presented. With this in mind, we strongly encourage county commissioners or legislative authorities to consult their prosecuting attorney before making this election.

Question: If a taxing district (district A) has its overall levy amount lowered because it has entered into an agreement with another taxing district (district B)--a levy buy-down, will voter approval be required in the subsequent year in order for the taxing district to return to its original level?

Answer: Probably not. In this case, taxing district A determines the amount of money it needs to raise through the property tax and certifies that levy amount to the county legislative authority. Subsequently, taxing district B agrees to pay a portion of taxing district A's levy to taxing district A, thereby reducing the amount needed

from the taxpayers in taxing district A. In the succeeding year, taxing district A will no longer be receiving money from taxing district B. In our opinion, if taxing district A's overall levy amount stays the same in the succeeding year, this does not constitute an increase in the total levy amount, but rather a shift in who is paying the tax. Since the taxing district's total levy amount is not increasing, voter approval will not be required.

Likewise, taxing district B will not need voter approval to carry out the levy buy-down. Taxing district B is simply buying levy capacity from taxing district A in order to collect the levy amount that it would otherwise be authorized to collect. Since taxing district B is not collecting more than its certified levy amount, this is not a "tax increase" as described in Initiative 695.

Question: Are taxing districts allowed to add amounts to their levy for new construction, improvements to property, and increases in the value of state-assessed property without obtaining voter approval?

Answer: The Department previously answered this question in the affirmative. Although there are arguments otherwise, the Department continues to believe this position is the better one. As stated before, under RCW 84.55.010 a local taxing district's levy amount is allowed to increase by an amount calculated using these increases in value regardless of the levy limitation contained in that statute, and regardless of whether any legislative action has been taken by a taxing district's legislative body to increase the levy amount. These increases in value are due to actions taken by individual taxpayers, such as building a new house, adding value to an existing lot, and adding value to state assessed property. These increases are equivalent to taxpayers paying additional sales tax because they have purchased more goods. Such increases are not directly caused by any governmental action. These increases (new construction, etc.) should not be considered "tax increase[s] imposed by the state"; therefore, they may be added to a taxing district's levy amount. This interpretation harmonizes the provisions of I-695 with existing law.
